IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 2518 of 2007

VIRENDRA BHUSHAN KHANNA
V/S
RAJENDRA KUMAR VERMA & ANR

Mr. J GEHLOT, for the appellant / petitioner

Mr. SANTOSH CHOUHAN, for the respondent

Date of Order : 14.5.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties.

By the impugned order, the learned trial Court has declined to reopen the evidence and to recall the order dated 2.3.2007, whereby the right of defendant to cross-examine the plaintiff's witnesses Anil Verma and Heera Lal was also closed. Both parties have their own stories to submit.

However, considering over all view of the matter, I think it appropriate to grant the petitioner one more opportunity to lead his evidence including to be given the right to cross-examine the aforesaid two witnesses of the plaintiff being Anil Verma and Heera Lal and to lead all his evidence subject to payment of a cost of Rs.5000/-. It is informed that the matter is fixed in the trial Court on 24.5.2007.

Accordingly, it is directed that on 24.5.2007 the plaintiff shall keep the aforesaid two witnesses present,

to whom the petitioner will cross-examine, and at the same time, the petitioner will also keep all his witnesses present on that day, or may file their affidavits after giving copy to the opposite side, a week before the date of hearing, and also shall pay a cost of Rs.5000/- to the plaintiff. Thereupon on 24.5.2007 the plaintiff will cross-examine the defendant's witnesses. It is made clear that if the defendant fails to pay the cost or to cross-examine the plaintiff's witnesses without any fault of his, or fails to keep the witnesses present on 24.5.2007, the writ petition will automatically stand dismissed, and the impugned order shall revive. However, if for any reason of the Court, the cross-examination of the plaintiff's witnesses or the recording of evidence of the defendant is not possible on 24.5.2007, the attendance of the witnesses shall be recorded, and they shall be bound down to appear on the next date of hearing. It is also clarified that if the plaintiff fails to produce the two witnesses Anil Verma and Heera Lal on 24.5.2007, their cross-examination shall be closed and their evidence shall not be read on record. The writ petition is, accordingly, disposed of.

(N P GUPTA),J.

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